

kmp7299/LRE
Return Date & Time:
August 22, 2019 at 2:30 PM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 18-11973 CGM

NOTICE OF MOTION

MARTINA GARCIA,

Debtor(s).

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Cecelia G. Morris, Chief U.S. Bankruptcy Judge, at the United States Bankruptcy Court, One Bowling Green New York, NY 10004, on August 22, 2019 2:30 PM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
July 23, 2019

/s/ Krista M. Preuss
KRISTA M. PREUSS, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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IN RE:

Chapter 13 Case No: 18-11973 CGM

MARTINA GARCIA,

APPLICATION

Debtor(s).

-----X

TO THE HONORABLE, CECELIA G. MORRIS, CHIEF U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on June 29, 2018, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.
2. The Debtor has failed to comply with 11 U.S.C. §521(a)(1) and Bankruptcy Rule 1007(b) in that the following required documents have not been filed:
 - a. copies of all payment advices or other evidence of payment for last 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor pursuant to 11 U.S.C. §521(a)(1)(B)(iv), inclusive of monthly business operating statements for the rental business.
3. The Debtor has failed to amend Schedule I and J to be in conformity with the paystubs thereby increasing the available disposable income.
4. The Debtor failed to provide the Trustee with documentation of the current value of all real property in which the Debtor has an ownership interest.
5. The Debtor has failed to amend the Plan with respect to Section 1.2 to fill in the second set of boxes relating to valuation of a secured claim.
6. The Plan must be amended to reflect the Debtor's disposable income and increase the \$20.00 proposed Plan payments to at least payments of \$50.00 per month to comply with 11 U.S.C. §330(c).
7. The Debtor's failure as stated above impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).
8. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
July 23, 2019

/s/ Krista M. Preuss
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

Chapter 13 Case No: 18-11973 CGM

MARTINA GARCIA,

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

MARTINA GARCIA
1500 Vyse Avenue
Bronx, New York 10460

Geoffrey Mcdonald, Ph.D.
c/o Bronx Legal Services
349 East 149th Street 10th Floor
Bronx, New York 10451

William z. Kransdorf, Esq.
Legal Services NYC
40 Worth Street # 606
New York, New York 10013

Specialized Loan Servicing, LLC
8742 Lucent Blvd. # 300
Highlands Ranch, Colorado 80129

Select Portfolio Servicing, Inc.
P.O. Box 75250
Salt Lake City, Utah 84165

This July 23, 2019

/s/Lois Rosemarie Esposito
Lois Rosemarie Esposito, Paralegal Case Support
Office of the Standing Chapter 13 Trustee
Krista M. Preuss, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CHAPTER 13 CASE NO: 18-11973 CGM
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

MARTINA GARCIA,

Debtor(s).

NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE

KRISTA M. PREUSS
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333
